

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE M.F. SALDANHA

W.P. No. 28101/1996

BETWEEN


Sri Narayana Baramanna Patil,
since deceased, by his L.Rs:-

1. Sri Dattatreya Narayana Patil
 2. Sri Vijaya Narayana Patil
 3. Sri Rajendra Narayana Patil
- PETITIONERS

all are majors and sons of
late Narayana Baramanna Patil,
all are r/at. Kadoli
village, Belgaum Taluk
Belgaum Dist.

(By Sri K.K. Vasanth, Adv.)

AND

1. The State of Karnataka
rep. by its Secretary
dept. of Revenue,
Vidhana Soudha
Bangalore
 2. The Land Tribunal
Belgaum, rep. by its
Chairman.
 3. Sri Dhenu Chatru Dhanagar
 4. Sri Rayappa Chatru Dhanagar
 5. Sri Vazir Chatru Dhanagar
 6. Sri Mallappa .do.
 7. Sri Kallappa .do.
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8. Sri Shivaji Chatru Dhanagar

9. Sri Raju Chatru Dhanagar

respts. No. 3 to 9 are majors
and all are sons of Chatru Dhanagar
all are r/at.Kadoli,
Belgaum Taluk, Belgaum Dist.

RESPONDENTS

(Sri S.V. Jagannath, Addl.G.A. for R.1 & R.2)

(Sri B.S. Umesh, Adv. for R.3 to R.9)

Memorandum of writ petition is filed under
Arts.226 & 227 of the Constitution praying that
this Court be pleased to quash Annex.E dt.22.7.96
by R.2 dt. 22.7.96 etc.

Writ petition comign on for hearing this day,
the Court made the following:-

ORDER

I have heard the petitioners' learned
advocate as also the learned advocate representing
the contesting respondents as also the learned
Govt. Advocate on merits.

2. This is an old proceeding and the
petitioner has challenged the grant of occupancy
rights in favour of the respondents because it is
pointed out that these were essentially inam
lands and that the regrant has taken place only in
the year 1981 and the petitioner's learned
advocate submits therefore that the entire

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contention of the respondents that they should be deemed to have been tenants in occupation as on 1.3.1974 is legally untenable. The respondents' learned advocate has submitted that the position as on 1.3.1974 is material and he heavily relies on an admission by the petitioners before the tribunal to the effect that the respondents were in possession and cultivation of the lands for about 45 years. What the learned advocate is emphasising is that it is not as though some stray claim is being made in order to take advantage of 1.3.1974 ^{the just} or ^h period ^h prior to that, but he submits that it clearly establishes as is borne out by the revenue records that the respondents ^{were in the picture} ~~are permitted~~ can be seen for a long time prior to that.

3. The petitioners' learned advocate has submitted that this would not make any difference in law because it cannot confer rights on the petitioners because he submits that ^{unless} ~~only~~ the lands were regranted to his clients, there can be no question of the petitioners claiming ^{the} relationship of tenants vis.a.vis him. The learned advocate further points out that there is one very important factor in this case namely that

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the parties admit that an agreement to sell was entered into in the year 1962 and that this fully explains the status of the respondents in law and that they can only be categorised as prospective purchasers. He submits that if this is the legal status that they can never qualify for conferment of occupancy rights. Had this been all, I would have certainly accepted the submissions canvassed by the petitioners' learned advocate. The real difficulty is that one is required to view this agreement along with the admission before the tribunal that the respondents were in the picture much earlier. If that is the position, one has to take note of the fact that the agreement to sell never turned into a full-fledged sale and in this background that agreement can never change the original status of the respondents who have ~~offered~~ ^{avowed} before the tribunal that they were tenants and that they used to pay two bags of paddy as rent. This is really the crux of the matter. To my mind, the tribunal was justified in having accepted the claim of the respondents.

4. Petitioners' learned advocate pointed out to me that there are some procedural

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irregularities with regard to the conduct of the enquiry but I have carefully perused these and I am satisfied that none of them are either grave enough to vitiate the proceeding nor for that matter are they serious enough to have grossly altered a fair outcome. Under these circumstances, I am not prepared to uphold any of those as they are of an insignificant nature.

5. Having regard to the aforesaid situation, to my mind this is one of the cases in which no interference would be called for by this Court. The order of the tribunal is accordingly confirmed. The writ petition fails and stands disposed of. No order as to costs.

Sd/-
JUDGE

GS/-